

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1855-PST-E TCEQ ID: RN102409034 CASE NO.: 31235
RESPONDENT NAME: OSCAR FOOD CORP. DBA CIRCLE A STORE

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 14525 Woodforest Blvd., Houston, Harris County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 18, 2009. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
TCEQ Enforcement Coordinator: Mr. Terry Murphy, Air Enforcement Section, MC 149, (512) 239-5025
TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623
Respondent: Mr. Nizar Rajab Ali, President, Oscar Food Corp., 14525 Woodforest Blvd., Houston, Texas 77015;
 Mr. Nizar Rajab Ali, President, Oscar Food Corp., 12703 Veterans Memorial Drive, Ste. 105, Houston, Texas 77014-2007
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Dates of Investigations Relating to this Case: May 24, 2006 and July 11, 2006</p> <p>Date of NOE Relating to this Case: June 15, 2006</p> <p>Background Facts: The EDPRP was filed July 26, 2007. The Respondent failed to respond, and the case was set for a Default/Shutdown Order on the Commission's February 11, 2009, agenda. On February 3, 2009, the Respondent submitted a signed Agreed Order with initial penalty payment.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PST:</p> <p>1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the underground storage tanks ("USTs") at the Station [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>2. Failed to maintain and make available legible copies of all required UST records for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>3. Failed to maintain Stage II records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(1), (3), (4), (5), (6), and (7)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4. Failed to maintain all components of the Stage II Vapor Recovery System in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system, and failed to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.242(3), (3)(A), (3)(B), and (9), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$16,770</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$4,120 / \$12,650</p> <p>The Respondent paid \$4,120 of the administrative penalty. The remaining amount (\$12,650) shall be payable in 23 monthly payments of \$550.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall implement the following corrective measures</p> <p>1. Immediately:</p> <p>a. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ; and</p> <p>b. Begin conducting proper inventory control procedures for all USTs.</p> <p>2. Within 30 days:</p> <p>a. Begin maintaining all records pertaining to the UST system;</p> <p>b. Begin maintaining all Stage II records;</p> <p>c. Begin maintaining all components of the Stage II vapor recovery system in proper operating condition and post operating instructions on front of each dispensing pump equipped with Stage II Vapor Recovery System;</p> <p>d. Begin conducting monthly inspections of the Stage II Vapor Recovery System;</p> <p>e. Install overfill prevention equipment for all USTs;</p> <p>f. Inspect the impressed current cathodic protection system and conduct triennial testing of the cathodic protection system; and</p> <p>g. Implement a release detection method for the UST and the piping associated with the USTs and conduct testing of the line leak detectors.</p> <p>3. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision Nos. 1.a. through 2.g. above.</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to conduct monthly inspections of the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>6. Failed to provide overfill prevention equipment for the UST system [30 TEX. ADMIN. CODE § 334.51(b)(1)(B) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>7. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4)(C), and TEX. WATER CODE § 26.3475(d)].</p> <p>8. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), failed to test the line leak detectors at least once per year for performance and operational reliability, failed to monitor the pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system, and failed to perform automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallons per hour from any portion of the tank which contained regulated substances [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i)(III), (b)(2)(A)(ii), and (d)(4)(A)(ii)(II), and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>9. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p>		



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES

Assigned 28-Aug-2006
PCW 26-Jan-2009

Screening 13-Sep-2006

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Oscar Food Corp. dba Circle A Store
 Reg. Ent. Ref. No. RN102409034
 Facility/Site Region 12-Houston Major/Minor Source Minor Source

CASE INFORMATION

Enf./Case ID No. 31235 No. of Violations 9
 Docket No. 2006-1855-PST-E Order Type 1660
 Media Program(s) Petroleum Storage Tank Enf. Coordinator Terry Murphy
 Multi-Media EC's Team Team 4
 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$13,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 29% Enhancement Subtotals 2, 3, & 7 \$3,770

Notes Enhancement for one Notice of Violation (NOV) with same or similar violations, two NOV's without same or similar violations, and one 1660 Agreed Order.

Culpability No 0% Enhancement

Subtotal 4 \$0

Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction

Subtotal 5 \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes The respondent does not meet the good faith criteria.

Economic Benefit

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts	\$2,459
Approx. Cost of Compliance	\$7,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$16,770

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$16,770

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$16,770

DEFERRAL

0% Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral appropriate: non-expedited settlement.

PAYABLE PENALTY

\$16,770

Screening Date 13-Sep-2006 **Docket No.** 2006-1855-PST-E **PCW**
Respondent Oscar Food Corp. dba Circle A Store *Policy Revision 2 (September 2002)*
Case ID No. 31235 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102409034
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Terry Murphy

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (<i>number of NOV's meeting criteria</i>)	1	5%
	Other written NOV's	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)		0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

>> Repeat Violator (Subtotal 3)

No ☐

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer ☐

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Notice of Violation (NOV) with same or similar violations, two NOV's without same or similar violations, and one 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 29%

Screening Date 13-Sep-2006	Docket No. 2006-1855-PST-E	PCW
Respondent Oscar Food Corp. dba Circle A Store	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31235	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102409034		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Terry Murphy		
Violation Number	<div style="border: 1px solid black; text-align: center;">1</div>	
Primary Rule Cite(s)	<div style="border: 1px solid black; text-align: center;">30 Tex. Admin. Code § 334.8(c)(5)(A)(i)</div>	
Secondary Rule Cite(s)	<div style="border: 1px solid black; text-align: center;">Tex. Water Code § 26.3467(a)</div>	
Violation Description	Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the underground storage tanks ("USTs") at the Station. Specifically, the respondent accepted one fuel delivery without a delivery certificate.	
Base Penalty		<div style="border: 1px solid black; text-align: right;">\$10,000</div>

>> Environmental, Property and Human Health Matrix

Harm			
Release	Major	Moderate	Minor
Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>

Percent

5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

-\$9,500

Base Penalty Subtotal

\$500

Violation Events

Number of Violation Events

1

mark only one use a small x	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	single event	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>

Violation Base Penalty

\$500

One single event (one per drop) is recommended based on documentation of the violation during the May 24, 2006 investigation date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <div style="border: 1px solid black; text-align: right;">\$15</div>	Violation Final Penalty Total <div style="border: 1px solid black; text-align: right;">\$645</div>
This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; text-align: right;">\$645</div>	

Economic Benefit Worksheet

Respondent Oscar Food Corp. dba Circle A Store
Case ID No. 31235
Reg. Ent. Reference No. RN102409034
Media [Statute] Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$150	30-May-2005	11-May-2007	1.9	\$15	n/a	\$15

Notes for DELAYED costs Estimated cost to prepare and submit the UST Registration & Self-Certification form for renewal of a delivery certificate. The Date Required is the expiration date of the previous delivery certificate and the Final Date is the estimated date of compliance.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$150**

TOTAL **\$15**

Screening Date 13-Sep-2006	Docket No. 2006-1855-PST-E	PCW
Respondent Oscar Food Corp. dba Circle A Store	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31235	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102409034		
Media [Statute]	Petroleum Storage Tank	
Enf. Coordinator	Terry Murphy	
Violation Number	<div style="border: 1px solid black; padding: 2px;">2</div>	
Primary Rule Cite(s)	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.10(b)</div>	
Secondary Rule Cite(s)	<div style="border: 1px solid black; padding: 2px;"></div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failed to maintain and make available legible copies of all required UST records for inspection upon request by agency personnel.</div>	
Base Penalty		<div style="border: 1px solid black; padding: 2px;">\$10,000</div>

>>

Environmental, Property and Human Health Matrix

	Harm			
Release	Major	Moderate	Minor	
Actual	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	Percent <div style="border: 1px solid black; width: 60px;"></div>
Potential	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	

OR

>>

Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	<div style="border: 1px solid black; width: 50px; height: 20px; display: flex; align-items: center; justify-content: center;">x</div>	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>	Percent <div style="border: 1px solid black; padding: 2px;">10%</div>

Matrix Notes

100% of the rule requirement was not met.

Adjustment

-\$9,000

Base Penalty Subtotal

\$1,000

Violation Events

Number of Violation Events

1

*mark only one
use a small x*

daily	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>
monthly	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>
quarterly	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>
semiannual	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>
annual	<div style="border: 1px solid black; width: 50px; height: 20px;"></div>
single event	<div style="border: 1px solid black; width: 50px; height: 20px; display: flex; align-items: center; justify-content: center;">x</div>

Violation Base Penalty

\$1,000

One single event is recommended based on documentation of the violation during the July 11, 2006 investigation date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <div style="border: 1px solid black; padding: 2px;">\$21</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px;">\$1,290</div>
This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; padding: 2px;">\$1,290</div>	

Economic Benefit Worksheet

Respondent Oscar Food Corp. dba Circle A Store

Case ID No. 31235

Reg. Ent. Reference No. RN102409034

Media [Statute] Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	11-Jul-2006	11-May-2007	0.8	\$21	n/a	\$21
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain the required records. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$500****TOTAL** **\$21**

Screening Date 13-Sep-2006	Docket No. 2006-1855-PST-E	PCW	
Respondent Oscar Food Corp. dba Circle A Store	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 31235	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No. RN102409034			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Terry Murphy			
Violation Number 3			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 115.246(1), 115.246(3), 115.246(4), 115.246(5), 115.246(6), and 115.246(7)(A)		
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to maintain Stage II records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request. Specifically, the respondent did not maintain a daily inspection log, proof of attendance and completion of Stage II training, maintenance logs for all repair and/or replacements for Stage II equipment, Stage II testing results, and a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual			
Potential			
Percent			
>> Programmatic Matrix			
Falsification	Major	Moderate	Minor
	X		
Percent		10%	
Matrix Notes	100% of the rule requirement was not met.		
Adjustment		-\$9,000	
Base Penalty Subtotal		\$1,000	
Violation Events			
Number of Violation Events		1	
mark only one use a small x	daily		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	
Violation Base Penalty		\$1,000	
One single event is recommended based on documentation of the violation during the July 11, 2006 investigation date.			
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount \$21		Violation Final Penalty Total \$1,290	
This violation Final Assessed Penalty (adjusted for limits)		\$1,290	

Economic Benefit Worksheet

Respondent Oscar Food Corp. dba Circle A Store
 Case ID No. 31235
 Reg. Ent. Reference No. RN102409034
 Media [Statute] Petroleum Storage Tank
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	11-Jul-2006	11-May-2007	0.8	\$21	n/a	\$21
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Approximate cost of maintaining required records. Date required is the investigation date.
 Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$500****TOTAL** **\$21**

Screening Date 13-Sep-2006	Docket No. 2006-1855-PST-E	PCW	
Respondent Oscar Food Corp. dba Circle A Store	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 31235	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No. RN102409034			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Terry Murphy			
Violation Number 4			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.242(3), 115.242(3)(A), 115.242(3)(B), and 115.242(9)		
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)		
Violation Description	<p>Failed to maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the dispenser no. 2 regular unleaded nozzle was leaking, the swivel adapters were not installed on any of the fills or Stage I dry breaks, and the dispenser no. 1 unleaded hose was torn. Also, the respondent failed to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II vapor recovery system. Specifically, the operating instructions were not posted for dispensers nos. 1 and 2.</p>		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual			X
Potential			
Percent		10%	
>> Programmatic Matrix			
Falsification	Major	Moderate	Minor
Percent			
Matrix Notes	<p>Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.</p>		
Adjustment		-\$9,000	
Base Penalty Subtotal		\$1,000	
Violation Events			
Number of Violation Events		1	
mark only one use a small x	daily		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		
Violation Base Penalty		\$1,000	
<p>One quarterly event is recommended based on documentation of the violation during the July 11, 2006 investigation date to the September 13, 2006 screening date.</p>			
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount		\$31	
		Violation Final Penalty Total	
		\$1,290	
		This violation Final Assessed Penalty (adjusted for limits)	
		\$1,290	

Economic Benefit Worksheet

Respondent Oscar Food Corp. dba Circle A Store
Case ID No. 31235
Reg. Ent. Reference No. RN102409034
Media [Statute] Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$750	11-Jul-2006	11-May-2007	0.8	\$31	n/a	\$31

Notes for DELAYED costs

Estimated cost to maintain the Stage II vapor recovery components. Date required is the date of the investigation. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$750****TOTAL** **\$31**

Screening Date 13-Sep-2006	Docket No. 2006-1855-PST-E	PCW	
Respondent Oscar Food Corp. dba Circle A Store	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 31235	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No. RN102409034			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Terry Murphy			
Violation Number	<div style="border: 1px solid black; padding: 2px;">5</div>		
Primary Rule Cite(s)	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 115.244(3)</div>		
Secondary Rule Cite(s)	<div style="border: 1px solid black; padding: 2px;">Tex. Health & Safety Code § 382.085(b)</div>		
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failed to conduct monthly inspections of the Stage II vapor recovery system. Specifically, the respondent did not inspect the pressure/vacuum relief valves, vapor check valves, or Stage I dry breaks on a monthly basis.</div>		
Base Penalty		<div style="border: 1px solid black; padding: 2px;">\$10,000</div>	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
Potential	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">X</div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
Percent		<div style="border: 1px solid black; padding: 2px;">10%</div>	
>> Programmatic Matrix			
Falsification	Major	Moderate	Minor
<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
Percent		<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>		
Adjustment		<div style="border: 1px solid black; padding: 2px;">-\$9,000</div>	
Base Penalty Subtotal		<div style="border: 1px solid black; padding: 2px;">\$1,000</div>	
Violation Events			
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>	
mark only one use a small x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">X</div>	
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
Violation Base Penalty		<div style="border: 1px solid black; padding: 2px;">\$1,000</div>	
One quarterly event is recommended based on documentation of the violation during the July 11, 2006 investigation date to the September 13, 2006 screening date.			
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<div style="border: 1px solid black; padding: 2px;">\$4</div>	Violation Final Penalty Total	<div style="border: 1px solid black; padding: 2px;">\$1,290</div>
This violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; padding: 2px;">\$1,290</div>	

Economic Benefit Worksheet

Respondent Oscar Food Corp. dba Circle A Store

Case ID No. 31235

Reg. Ent. Reference No. RN102409034

Media [Statute] Petroleum Storage Tank

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	11-Jul-2006	11-May-2007	0.8	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to conduct monthly inspections of the Stage II vapor recovery system. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$100****TOTAL** **\$4**

Screening Date 13-Sep-2006	Docket No. 2006-1855-PST-E	PCW
Respondent Oscar Food Corp. dba Circle A Store	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31235	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102409034		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Terry Murphy		
Violation Number	<div style="border: 1px solid black; text-align: center;">6</div>	
Primary Rule Cite(s)	<div style="border: 1px solid black; text-align: center;">30 Tex. Admin. Code § 334.51(b)(1)(B)</div>	
Secondary Rule Cite(s)	<div style="border: 1px solid black; text-align: center;">Tex. Water Code § 26.3475(c)(2)</div>	
Violation Description	<div style="border: 1px solid black; text-align: center;">Failed to provide overfill prevention equipment for the UST system.</div>	
Base Penalty		<div style="border: 1px solid black; text-align: center;">\$10,000</div>

>>

Environmental, Property and Human Health Matrix

	Harm			
Release	Major	Moderate	Minor	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 60px; text-align: center;">10%</div>
Potential	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">X</div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	

>>

Programmatic Matrix

Falsification	Major	Moderate	Minor	
<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 60px;"></div>

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

-\$9,000

Base Penalty Subtotal

\$1,000

Violation Events

Number of Violation Events

1

mark only one
use a small x

daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
quarterly	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">X</div>
semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>

Violation Base Penalty

\$1,000

One quarterly event is recommended based on documentation of the violation during the July 11, 2006 investigation date to the September 13, 2006 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	Violation Final Penalty Total
<div style="border: 1px solid black; text-align: center;">\$29</div>	<div style="border: 1px solid black; text-align: center;">\$1,290</div>
This violation Final Assessed Penalty (adjusted for limits)	
<div style="border: 1px solid black; text-align: center;">\$1,290</div>	

Economic Benefit Worksheet

Respondent Oscar Food Corp. dba Circle A Store
 Case ID No. 31235
 Reg. Ent. Reference No. RN102409034
 Media [Statute] Petroleum Storage Tank
 Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment	\$500	11-Jul-2006	11-May-2007	0.8	\$1	\$28	\$29
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to properly install overfill prevention device. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Avoided Costs							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$29

Screening Date 13-Sep-2006

Docket No. 2006-1855-PST-E

PCW

Respondent Oscar Food Corp. dba Circle A Store

Policy Revision 2 (September 2002)

Case ID No. 31235

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102409034

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Terry Murphy

Violation Number 7

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and 334.49(c)(4)(C)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(d)

Violation Description

Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, the respondent did not conduct the bimonthly inspections. Also, the respondent failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of a least once every three years. Specifically, the respondent did not conduct the triennial test.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the July 11, 2006 investigation date to the September 13, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,238

Violation Final Penalty Total \$3,225

This violation Final Assessed Penalty (adjusted for limits) \$3,225

Economic Benefit Worksheet

Respondent Oscar Food Corp. dba Circle A Store

Case ID No. 31235

Reg. Ent. Reference No. RN102409034

Media [Statute] Petroleum Storage Tank

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$500	11-May-2006	11-Jul-2006	0.2	\$4	\$84	\$88
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	11-Jul-2003	11-Jul-2006	3.0	\$150	\$1,000	\$1,150

Notes for AVOIDED costs

Estimated cost to conduct bimonthly inspection of the rectifier and other components of the impressed current cathodic protection system. The Date Required two months prior to the investigation. The Final Date is the investigation date. Estimated cost to conduct the required triennial testing of the corrosion protection system. The Date Required is the three years prior to the investigation. The Final Date is the date of the investigation.

Approx. Cost of Compliance \$1,500

TOTAL \$1,238

Screening Date 13-Sep-2006	Docket No. 2006-1855-PST-E	PCW
Respondent Oscar Food Corp. dba Circle A Store	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31235	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102409034		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Terry Murphy		
Violation Number 8		
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A), 334.50(b)(2)(A)(i)(III), 334.50(b)(2)(A)(ii), and 334.50(d)(4)(A)(ii)(II)	
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(a) and (c)(1)	
Violation Description	<p>Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the respondent did not conduct inventory volume measurements in conjunction with automatic tank gauging as a release detection method. Also, the respondent failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. The respondent also failed to monitor the pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. Specifically, the respondent did not conduct the monthly monitoring of the piping associated with the UST system. Also, the respondent failed to perform automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallons per hour from any portion of the tank which contained regulated substances. Specifically, the respondent did not conduct monthly tank tests on the UST system.</p>	

Base Penalty >> **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

		Falsification			
		Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment Base Penalty Subtotal **Violation Events**Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty

One quarterly event is recommended based on documentation of the violation during the July 11, 2006 investigation date to the September 13, 2006 screening date.

Economic Benefit (EB) for this violation**Statutory Limit Test**Estimated EB Amount Violation Final Penalty Total This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Oscar Food Corp. dba Circle A Store
 Case ID No. 31235
 Reg. Ent. Reference No. RN102409034
 Media [Statute] Petroleum Storage Tank
 Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	11-Jul-2006	11-May-2007	0.8	\$62	n/a	\$62

Notes for DELAYED costs

Estimated costs to monitor all USTs and associated piping for releases. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	11-Jul-2005	11-Jul-2006	1.0	\$50	\$1,000	\$1,050

Notes for AVOIDED costs

Avoided cost for annual testing of the line leak detectors. The Date Required is the one year prior to the investigation date. The Final Date is the date of the investigation.

Approx. Cost of Compliance **\$2,500****TOTAL \$1,112**

Screening Date	13-Sep-2006	Docket No.	2006-1855-PST-E	PCW
Respondent	Oscar Food Corp. dba Circle A Store	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	31235	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102409034			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Terry Murphy			
Violation Number	9			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.48(c)			
Secondary Rule Cite(s)				
Violation Description	Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.			
Base Penalty				\$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential	X			

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.				

Adjustment -\$7,500**Base Penalty Subtotal** \$2,500**Violation Events****Number of Violation Events** 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the July 11, 2006 investigation date to the September 13, 2006 screening date.

Economic Benefit (EB) for this violation**Statutory Limit Test****Estimated EB Amount** -\$12**Violation Final Penalty Total** \$3,225**This violation Final Assessed Penalty (adjusted for limits)** \$3,225

Economic Benefit Worksheet**Respondent** Oscar Food Corp. dba Circle A Store**Case ID No.** 31235**Reg. Ent. Reference No.** RN102409034**Media [Statute]** Petroleum Storage Tank**Violation No.** 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	11-Jul-2006	11-May-2006	-0.2	-\$1	-\$11	-\$12
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct effective inventory control. Date Required is the date of the investigation and Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$1,000****TOTAL** **-\$12**

Compliance History

Customer/Respondent/Owner-Operator:	CN601249824	Oscar Food Corp.	Classification: AVERAGE	Rating: 9.38
Regulated Entity:	RN102409034	CIRCLE A STORE	Classification: AVERAGE	Site Rating: 9.38
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		8919	
Location:	14525 WOODFOREST BLVD, HOUSTON, TX, 77015		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	November 03, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 03, 2001 to November 03, 2006			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Shontay Wilcher		Phone:	(512) 239-2136

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
- Effective Date: 08/29/2005 ADMINORDER 2004-2116-PST-E
- Classification: Moderate
- Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]
- Description: Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental release arising from the operation of two USTs
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A
- C. Chronic excessive emissions events.
- N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 08/25/2006 | (486290) |
| 2 | 08/25/2006 | (480086) |
| 3 | 06/20/2006 | (480993) |
| 4 | 01/27/2006 | (452341) |
| 5 | 09/08/2004 | (288788) |
| 6 | 12/12/2005 | (438601) |
| 7 | 02/25/2003 | (275405) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
1. Date: 12/12/2005 (438601)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]
- Description: Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental release arising from the operation of two USTs
- Self Report? NO Classification: Major
- Citation: 2A TWC Chapter 7, SubChapter A 7.101
- Rqmt Prov: ORDER IA

Description: Failed to comply with Ordering Provisions of Commission Order Docket No. 2004-2116-PST-E.

2. Date: 02/25/2003 (275405)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to provide acceptable financial assurance

3. Date: 06/20/2006 (480993)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]

Description: Failure to develop and maintain all UST records.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the TCEQ, EPA, or any local air pollution control program with jurisdiction.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)

Description: Failure to maintain a daily inspection log according to 115.244 (Inspection Requirements).

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: Failure to maintain a maintenance log for all repair/replacements conducted at the facility.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II Vapor Recovery system and any related components installed at the facility.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)[G]

Description: Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(B)

Description: Failure to maintain hose in a manner that the hose is not crimped, kinked, or flattened such that the vapor passage is blocked, or the back-pressure through the vapor system exceeds the value as certified in the approved system's CARB Executive Order(s).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)[G]

Description: Failure to maintain all components of the Stage II Vapor Recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: Failure to provide and maintain the Stage II Vapor Recovery system in proper operating condition, as specified by the California Air Resources Board (CARB) Executive Order, including the absence or disconnection of any component that is a part of the approved system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OSCAR FOOD CORP. DBA
CIRCLE A STORE; RN102409034**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-1855-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Oscar Food Corp. dba Circle A Store ("Oscar Food") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Oscar Food, appear before the Commission and together stipulate that:

1. Oscar Food owns and operates a convenience store with retail sales of gasoline located at 14525 Wood Forest Blvd., Houston, Harris County, Texas (the "Station").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382, TEX. WATER CODE ch. 26, and TCEQ rules.
3. The Commission and Oscar Food agree that the Commission has jurisdiction to enter this Agreed Order, and that Oscar Food is subject to the Commission's jurisdiction.
4. Oscar Food received notice of the violations alleged in Section II ("Allegations") on or about June 20, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Oscar Food of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of sixteen thousand seven hundred seventy dollars (\$16,770.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). Oscar Food has paid four thousand one hundred twenty dollars (\$4,120.00) of the administrative penalty. The remaining amount of twelve thousand six hundred fifty dollars (\$12,650.00) of the administrative penalty shall be payable in 23 monthly payments of five hundred fifty dollars (\$550.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Oscar Food fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Oscar Food's failure to meet the payment schedule of this Agreed Order constitutes the failure by Oscar Food to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Oscar Food have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Oscar Food has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on May 24, 2006, a TCEQ Houston Regional Office investigator documented that Oscar Food violated 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Station. Specifically, Oscar Food accepted one fuel delivery without a delivery certificate.

2. During an investigation conducted on July 11, 2006, a TCEQ Houston Regional Office investigator documented that Oscar Food violated:
 - a. 30 TEX. ADMIN. CODE § 334.10(b), by failing to maintain and make available legible copies of all required UST records for inspection upon request by agency personnel.
 - b. 30 TEX. ADMIN. CODE § 115.246(1), (3), (4), (5), (6), and (7)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain Stage II records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request. Specifically, Oscar Food did not maintain a daily inspection log, proof of attendance and completion of Stage II training, maintenance logs for all repair and/or replacements for Stage II equipment, Stage II testing results, and a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system.
 - c. 30 TEX. ADMIN. CODE § 115.242(3), (3)(A), (3)(B), and (9), and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the dispenser no. 2 regular unleaded nozzle was leaking, the swivel adapters were not installed on any of the fills or Stage I dry breaks, and the dispenser no. 1 unleaded hose was torn. Also, Oscar Food failed to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II vapor recovery system. Specifically, the operating instructions were not posted for dispensers nos. 1 and 2.
 - d. 30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to conduct monthly inspections of the Stage II vapor recovery system. Specifically, Oscar Food did not inspect the pressure/vacuum relief valves, vapor check valves, or Stage I dry breaks on a monthly basis.
 - e. 30 TEX. ADMIN. CODE § 334.51(b)(1)(B) and TEX. WATER CODE § 26.3475(c)(2) by failing to provide overfill prevention equipment for the UST system.
 - f. 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4)(C), and TEX. WATER CODE § 26.3475(d) by failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, Oscar Food did not conduct the bimonthly inspections. Also, Oscar Food failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, Oscar Food did not conduct the triennial test.

- g. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i)(III), (b)(2)(A)(ii), and (d)(4)(A)(ii)(II), and TEX. WATER CODE § 26.3475(a) and (c)(1) by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, Oscar Food did not conduct inventory volume measurements in conjunction with automatic tank gauging as a release detection method. Also, Oscar Food failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. The Respondent also failed to monitor the pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. Specifically, Oscar Food did not conduct the monthly monitoring of the piping associated with the UST system. Also, Oscar Food failed to perform automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallons per hour from any portion of the tank which contained regulated substances. Specifically, Oscar Food did not conduct monthly tank tests on the UST system.
- h. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.

III. DENIALS

Oscar Food generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Oscar Food pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Oscar Food's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Oscar Food Corp. dba Circle A Store, Docket No. 2006-1855-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Oscar Food shall undertake the following technical requirements:

a. Immediately upon the effective date of this Agreed Order, Oscar Food shall:

- i. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ, in accordance with 30 TEX. ADMIN. CODE § 334.8; and
- ii. Begin conducting proper inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.

b. Within 30 days after the effective date of this Agreed Order, Oscar Food shall:

- i. Begin maintaining all records pertaining to the UST system in accordance with 30 TEX. ADMIN. CODE § 334.10;
- ii. Begin maintaining all Stage II records, in accordance with 30 TEX. ADMIN. CODE § 115.246;
- iii. Begin maintaining all components of the Stage II vapor recovery system in proper operating condition and post operating instructions on front of each dispensing pump equipped with Stage II Vapor Recovery System, in accordance with 30 TEX. ADMIN. CODE § 115.242;
- iv. Begin conducting monthly inspections of the Stage II Vapor Recovery System, in accordance with 30 TEX. ADMIN. CODE § 115.244;
- v. Install overfill prevention equipment for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.51;
- vi. Inspect the impressed current cathodic protection system and conduct triennial testing of the cathodic protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
- vii. Implement a release detection method for the UST and the piping associated with the USTs and conduct testing of the line leak detectors, in accordance with 30 TEX. ADMIN. CODE § 334.50.

c. Within 45 days after the effective date of this Agreed Order, Oscar Food shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.vii.. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Oscar Food shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.vii. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Nicole Bealle, Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk St., Ste. H
Houston, Texas 77023-1425

3. The provisions of this Agreed Order shall apply to and be binding upon Oscar Food. Oscar Food is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If Oscar Food fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Oscar Food's failure to comply is not a violation of this Agreed Order. Oscar Food shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Oscar Food shall notify the Executive Director within seven days after Oscar Food becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and

substantiated showing of good cause. All requests for extensions by Oscar Food shall be made in writing to the Executive Director. Extensions are not effective until Oscar Food receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

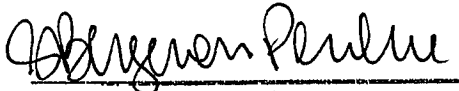
6. This Agreed Order, issued by the Commission, shall not be admissible against Oscar Food in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Oscar Food, or three days after the date on which the Commission mails notice of the Order to Oscar Food, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Oscar Food Corp. dba Circle A Store
Docket No. 2006-1855-PST-E
Page 8

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/15/2009

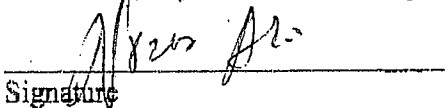
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Oscar Food's compliance history;
- Greater scrutiny of any permit applications submitted by Oscar Food;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Oscar Food;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Oscar Food; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

1/31/09

Date

NIZAR ALI (President)

Name (Printed or typed)

President

Title

Authorized representative of

Oscar Food Corp. dba Circle A Store